



CITY OF MURRIETA

September 2, 2010

Mr. David King, Chairman
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4353

**RE: COMMENTS TO PROPOSED TENTATIVE ORDER NO. R9-2010-0016,
REISSUANCE OF RIVERSIDE COUNTY MS4 NPDES PERMIT**

Dear Honorable Board Members:

The City of Murrieta is pleased to have this opportunity to comment on the draft of the Riverside County Municipal Separate Storm Sewer System (MS4) Permit, Tentative Order R9-2010-0016. City staff has reviewed the MS4 permit and has serious concerns about the financial implications on our region. Based on our research, the new requirements will significantly increase the City's program cost, and it is doubtful the City will be able to comply with the MS4 permit as drafted.

The City is committed to effectively utilizing public funds for the various services our citizens require, including the protection of our natural resources such as our water quality. The proposed MS4 permit, however, would require the City to expend significant additional resources, while the current and forecasted economic conditions have constrained our ability to meet the basic needs of our citizens. The City has been forced to make significant budget reductions due to reductions in sales tax and property tax revenue. The proposed MS4 permit will drastically increase our program cost, likely by twice the current budget.

On several occasions, Regional Water Quality Control Board (RWQCB) staff has stated their desire is to have similar requirements in all three MS4 permits issued by the Board, yet scaled or focused as appropriate to each region. Yet the proposed MS4 permit seems to contradict that goal. Recently, RWQCB issued Order R9-2009-001 to the south Orange County MS4 permittees. R9-2009-001, by our analysis, is less stringent. This despite the fact that Orange County has double the population of Riverside County with much higher property tax revenues to be able to budget for the necessary programs to comply with the permit. These metrics (population and tax revenues) often determine the strength of such programs. Unfortunately, these metrics do not appear to be considered in the proposed MS4 permit for Riverside County.

RWQCB staff has expressed their opinion that the cities are able to create new fees or tax assessments to pay for the requirements they have placed in the proposed MS4 permit. We strongly disagree with this assertion. Fees can only be collected from new development if there is a nexus to offset impacts created by development. There is simply no mechanism to impose a new fee or assessment on existing development to fund the stormwater program. Furthermore, due to Proposition 218, any tax or fee increase must be approved by the voters. California history has not

been sympathetic to those cities that have attempted to increase clean water fees. For example, the City of Encinitas, a relatively prosperous coastal city, attempted to pass a clean water fee in 2006, and it was defeated by 61 percent of the voters at a time when the economy was doing well. It does not bode well to think that voters in Riverside County would approve a fee increase during one of the worst economies in the history of our nation.

Due to the historic decrease in property tax and sales tax revenues, the primary funding mechanism for the City to implement programs, it is unlikely we would be able to comply with the proposed MS4 permit. In order to do so, the City would have to make budget cuts to other programs. Considering we have already considerably cut our budget two years in a row, implemented layoffs and furloughs, and put other cost savings measures into practice, a further decrease to critical city services to fund the additional requirements is impractical. Of greatest concern to the City is that the proposed MS4 permit does not take the current economic climate into consideration, and yet has more costly and stringent requirements than other permits throughout the region that are more suitable to fund such programs. In our opinion, this seems inequitable and unfair.

The City of Murrieta joins the vast majority of Californians in supporting a balanced, cost-effective strategy to guarantee clean water. However, we remain concerned that the MS4 permit will impose additional costs on the City that we cannot afford at this time. Additionally, it seems the new regulations are inequitable compared to other regions. Therefore, the City is opposed to the proposed permit in its current form. Increasing the cost to the public on a region that is one of the hardest hit during this economic crisis seems excessive. Instead, the City would be more supportive of efforts that would phase in requirements once revenue levels can support the additional costs. Moreover, we request that the Board direct their staff to prioritize what permit requirements are necessary to address the most critical issues that will give the most efficient use of available funds. This will allow the City to allocate the funds they have for these programs while not increasing current expenditures.

Thank you again for the opportunity to comment on the MS4 proposal. The City of Murrieta looks forward to working towards a solution with the Regional Water Quality Control Board on this issue. If I can be of any assistance, please do not hesitate to contact me at (951) 461-6015.

Respectfully,



Kelly A. Bennett, Esq.
Mayor

Cc: City Council
Dave Gibson, Dave Barker, Chiara Clemente, Ben Neil, Chad Lofton, and Wayne Chiu: San Diego Regional Board Staff
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